

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

In re: MULTIPLE PENDING) M.B.D. Case No. 20-
CRIMINAL COMPLAINTS;)
CORONAVIRUS PUBLIC)
EMERGENCY)

**MOTION FOR ENDS-OF-JUSTICE CONTINUANCE
OF TIME FOR FILING AN INDICTMENT OR INFORMATION,
AND EXCLUSION OF TIME,
UNDER THE SPEEDY TRIAL ACT**

The United States of America, by and through Assistant United States Attorney Mark J. Balthazard, respectfully moves this Court to grant a continuance of the time within which an indictment or information must be filed, and exclude the time period from March 13, 2020, through and including April 27, 2020, from the speedy trial clock, pursuant to the Speedy Trial Act, 18 U.S.C. §3161(h)(7)(A), and Sections 5(b)(7)(B) and 5(c)(1)(A) of the *Plan for Prompt Disposition of Criminal Cases* for the United States District Court for the District of Massachusetts (effective December 2008), on the ground that the ends of justice served by granting the requested continuance and excluding these periods outweigh the best interests of the public and the defendant in a speedy trial. The government further asks this Court to issue the attached proposed *Order of Continuance and Excludable Delay*. In support of this request, the government states as follows:

1. The following criminal cases were initiated by complaint prior to March 13, 2020, for which the Speedy Trial Act clock was not due to expire prior to March 19, 2020:
 - a. *United States v. Virginia Maldonado*, 18-mj-3166-KAR (not in custody);

- b. *United States v. Shannon Roberts*, 18-mj-3167-KAR (not in custody);
- c. *United States v. Jaclyn Lemelin*, 18-mj-3168-KAR (not in custody);
- d. *United States v. Keenam Park*, 19-MJ-1423-DLC (not in custody);
- e. *United States v. [REDACTED]*, 19-mj-1424-DLC (not in custody);
- f. *United States v. Damien Cornieles*, 19-mj-2569-MBB (in custody);
- g. *United States v. Floyd Young*, 19-mj-3053-KAR (not in custody);
- h. *United States v. Shannon Yelinek*, 19-mj-3139-KAR (not in custody);
- i. *United States v. Victom Antonenko*, 19-mj-4153-DHH (in custody);
- j. *United States v. [REDACTED]*, 19-mj-6485-MPK (not in custody);
- k. *United States v. Shawn Richardson*, 19-mj-7426-JCB (not in custody);
- l. *United States v. Jesus Reyes*, 20-mj-2047-MBB (not in custody);
- m. *United States v. Feliz Valoy Lebron Mateo*, 20-mj-2050-MBB (in custody);
- n. *United States v. Michael Donaher*, 20-mj-02128-MBB (not in custody);
- o. *United States v. Johnny Wanderley Gonzalez Gaterol*, 20-mj-2245-MBB (in custody);
- p. *United States v. Bladimir Antonio Sanchez Soto*, 20-mj-2248-MBB (in custody);
- q. *United States v. Fabio Yunior Moreta-Borge*, 20-mj-2250-MBB (in custody);
- r. *United States v. Alexandria Church*, 20-mj-3009-KAR (in custody; detention decision pending);
- s. *United States v. Luke Gagnon*, 20-mj-3018-KAR (in custody);
- t. *United States v. Matthew Alden*, 20-mj-4031-DHH (in custody; detention decision pending);
- u. *U.S. v. Jennifer True*, 20-mj-05002-JMD (not in custody);
- v. *United States v. Angel Valdez*, 20-mj-5020-JGD (in custody);
- w. *United States v. Shawn Herron*, 20-mj-6016-MPK (not in custody)

- x. *United States v. Alberto Nunez*, 20-mj-6132-MPK (in custody);
- y. *United States v. Dashawn Matthews*, 20-mj-6184-MPK (in custody);
- z. *United States v. Carl Auguste*, 20-mj-6193-MPK (not in custody);
- aa. *United States v. Paul Whooten*, 20-mj-6205-MPK (in custody);
- bb. *United States v. Luis Naranjo Rodriguez*, 20-mj-7023-JCB (in custody);
- cc. *United States v. John Doe*, 20-MJ-7027-JCB (in custody);
- dd. *United States v. Garry Bienvenue*, 20-MJ-7060-JCB (in custody; detention decision pending);

2. Late on Friday, March 13, 2020, the Court entered an Order Concerning Grand Jury Proceedings, in the matter of *In re: Coronavirus Public Emergency*, General 20-3. The Order provided that, because of the Coronavirus/Covid-19 public health emergency, all regularly scheduled grand jury proceedings in the District of Massachusetts were continued to April 27, 2020.

3. As a result of the Court's Order, the government will be unable to seek an Indictment in any of the above listed cases until April 28, 2020, at the earliest. Because of the rapid progress of this public health emergency, the government could not have anticipated in time to seek indictments that the Court would cancel all grand juries late on Friday, March 13, 2020. The Court's unprecedented Order continuing all jury trials for the same time period, General Order 20-2, was issued just one day earlier (March 12, 2020), and no grand jury sessions were scheduled on March 13, 2020.

4. The same exclusions that apply for a trial apply to the 30-day requirement to indict. See 18 U.S.C. § 3161(h). None of these exclusions directly cover a situation where a disease outbreak is the reason why the indictment cannot be returned within the 30-day time period. This would appear, however, to be the type of situation where an "ends of justice" continuance of the indictment period can be justified. See 18 U.S.C. § 3161(h)(7)(A) and (B)(i); *see also, e.g., United States v. Ferris*, 751

F.2d 436, 441-442 (1st Cir. 1984) (delay due to judge's illness is properly excludable time); *United States v. Morgan*, No. CRIM. 00-375, 2000 WL 1622748, at *11 (E.D. Pa. Oct. 20, 2000) ("A number of circuit courts have interpreted both the language and legislative history of this provision to permit excluding continuances based on the illness of the trial judge.").

5. A proposed order is attached.

Respectfully submitted,

ANDREW E. LELLING
United States Attorney

By: /s/ Mark J. Balthazard
MARK J. BALTHAZARD
Assistant U.S. Attorney

Certificate of Service

I hereby certify that this document filed through the ECF system will be sent by email to the attorneys representing the above-referenced defendants as identified on each of the Notices of Electronic Filing and paper copies will be sent to those indicated as non-registered participants.

By: /s/ Mark J. Balthazard
MARK J. BALTHAZARD
Assistant U.S. Attorney